

## MINUTES – BOARD OF ASSESSORS MEETING, 2/28/05

In attendance: **Board of Assessors:** Denis O'Regan, Chair; Walt Borders, Brooke Bovard, Jane Frantz, Tom Frantz, Laura Wallace.

**Public:** Mike Curtis, Rodney Jester, Sadie Somerville.

Absent: **Board of Assessors:** Larry Walker.

Denis O'Regan called the meeting to order at 7:30 p.m.

**Minutes:** The meeting began with the first public hearing of the 2005 Board of Assessors. Denis O'Regan started the hearing by announcing that the Board will follow the rules for public participation previously agreed upon by the Board. Jane Frantz read the rules into the record from the minutes of the Board meeting on 2/17/05, as follows:

- Non-public hearings are working meetings of the Board, so the public, while welcome to attend, will be allowed to participate only if recognized by the Chair. Otherwise, the public will be asked to hold their comments until the end of the meeting and be recognized then if time allows and at the discretion of the Board.
- Individual Assessors can request feedback from the public in attendance, but speakers must still be recognized by the Chair.
- Public hearings are the opportunity for the public to express their opinions or to ask questions. The hearings are scheduled to last for an hour at the beginning of the Board meetings. That time can be extended, as needed, by agreement of the Board.

Denis then thanked the public for coming out on a snowy night to attend the hearing and recognized Mike Curtis.

Mike said, in his opinion, the Arden Charter suggests that full rental value of the land is to be assessed. The duty of the Assessors is to determine the rental value of the Arden leaseholds. Mike does not see how anyone could interpret that requirement to mean collecting only the amount of money the town needs to operate. By saying that the rental value equals the amount of money the town needs, he does not understand how you distinguish the differing values of the different properties. He feels this is an impractical

position to take and asked how the Board came up with this. Brooke Bovard said that question should have been put to the Assessors who came up with that definition, not to this Board. She said that the community standards as of 2005 represent the will of the community; current support for the current standards is the will of the community now. Mike asked to be allowed to explain how the “community standard of living” came about. According to Mike, in the 1960’s a few people on the Board of Assessors went along with the idea that if you take the selling price of land and multiply it by the current rate of interest you get the full rental value. He said you could use a 5-year average or other means as well. Over the next 5 to 10 years, the Assessors came up with a series of plans until, finally, the 1980 Board of Assessors came up with the current version. Mike went on to explain various aspects of Georgist economic theory, but he conceded that there is no way to collect the “full” rental value because of the way the Deed of Trust is structured. There could be problems if the community collects more money than it needs, has nothing to spend it on, and no reason to hold onto excess revenue.

Rodney Jester said that the 1955-56 assessment actually charged more for the Harvey Road factor, and the prudent reserve was approximately two-thirds of land rent. He also said that individual lot rents were exceptionally low. Rodney pointed out that low land rent encourages land speculation. According to Rodney, people who hold land out of production are speculators in Georgist terms and that speculation does economic damage to the community.

Brooke pointed out that in the 1950’s leaseholds were not as fully served by amenities as they are now, e.g., roads, etc. Over the years our community expenses have increased. Also, the community does not want a lot of building on each leasehold, e.g., cottages, apartments, etc. Today, we want more square feet per person in our houses and on our land. Proximity to open space is more valued today. This is a standard of living that has changed over the years.

After some more discussion of Georgist theory and its historical application in the Ardens, Denis asked how all this discussion helps us, the 2005 Board of Assessors, to do our job.

Mike said that he was not trying to suggest that any of this is relevant. There is no actual data to support the way we do things now.

Tom Frantz asked Mike how he would determine the value of each leasehold. Mike said you need to figure out what is the highest and best use of the land. Tom said that we can't do that here in Arden because we are restricted by New Castle County zoning laws and prohibitions on development by the Trustees. Mike said that we must operate within those legal restrictions to determine the highest and best use of the land. Denis asked Mike what tool we are supposed to use to determine that use or value. Mike said you would have to be confident that the current use of the land (your house, etc.) is the highest and best use.

Mike asked if the Board sees its job as actually determining the rental value of the land or simply determining how much the town needs to raise. Walt Borders said that "full rental value" is supposed to be just on the land. What about having leaseholders pay their own property and other taxes on the improvements? Mike said that currently the Village collects all the bills and reapportions them. Brooke wondered what the advantage would be to separate out the property and school taxes at this point. A brief discussion on improvements taxes followed, but it was very quickly decided that this is a big topic that should be taken up at another time.

At that point, Denis asked if there were any other comments from the public. There were none, so Denis thanked Mike for attending and invited him to stay for the regular Board meeting; Rodney and Sadie had already left. Mike declined and left as well. The public hearing concluded at 8:35 p.m.

The regular Board meeting followed, and the next agenda item was the status of legal advice for the Board of Assessors. On Mark Taylor's recommendation, Denis contacted Mark's brother who is a real estate attorney. Unfortunately, Mark's brother said that he would have too many conflicts of interest to be able to help us. Denis then contacted Ed Danbury at the law firm of Connolly, Bove. Danbury quoted a ballpark figure of \$2,500 to review all of our relevant documents and render a legal opinion. It was Danbury's view that this matter would not be difficult or complicated because, in his words, "the law is the law." Denis thought it would be a good idea to put the \$2,500 figure "out there" as a budget line item and generate a discussion with the town. Tom pointed out that the Trustees already have their own legal budget, so this idea is not unheard of in Arden. Walt said the Assessors need to hire their own legal counsel because we need an independent knowledge base. Brooke suggested that the 3-year

budget line item should be in the town assembly budget because the Assessors are not the only group or committee which acts to balance the power of the Trustees. She felt that if it is couched in more general terms, involving all committees, it is less likely to produce a confrontation at town meeting. Denis disagreed, stating that assessment of land rent moving into the 21<sup>st</sup> century is a central issue facing this community, and the Board needs to have its own budget to carry out its charge. Laura said that putting in this budget request is a good idea because we, as the Board of Assessors, want to talk about this; we want people to discuss it. Denis said that the requested funds may not actually be spent by the next Board, but that Board would at least have the ability to ask questions and get the legal advice it needs. Tom pointed out that getting this request in now allows time for discussion at town meetings over the next six months before the budget goes to referendum after the September town meeting. Jane made a **motion that the Board of Assessors request \$2,600 for each of the next three years - \$2,500 for legal advice, \$100 for postage to mail out our required public hearing notices. The motion was seconded by Denis, and it passed by unanimous vote.**

The next agenda item was the Assessors' articles in the Arden Page. Denis suggested that our budget request be the subject of our next letter; he also volunteered to write it. Denis will include a summary of that article as part of the Assessors' report to the March town meeting. Brooke expressed concern about these articles being published in the name of the Board as a whole rather than in the name of the individual Assessor who wrote it. After a brief discussion, it was agreed that all future articles will be identified by individual author.

The Green Book was next on the agenda, with two items to be discussed: whether to include the Ardencroft v. Scott case, and the instructions section. Brooke thought we should include the Ardencroft case in our working copies for now, but hold off on voting to include it in the official copy until the end of our term. Denis felt that we will have seven working copies to discuss and that could result in a marathon meeting in August; he suggested deciding on it now. Tom felt that the case is a legal document with relevance to the Board of Assessors, and it should be included. Brooke was concerned about including cover letters and other "opinion" pieces as part of the legal document section. Denis thought that legal documents belong in one section and "editorials" should go in another. **A motion was made to add a section to the instructions that only legal documents, themselves,**

**be included in the Green Book. If any comments or editorials concerning the legal documents are included, they will be put in a separate section of the Green Book. The motion passed unanimously. Another motion was made to include the Ardencroft v. Scott case in the Green Book. This motion also passed unanimously.**

Our next agenda item was to begin discussing the recommendations we will make to the town in June. Denis brought up the subject of factors. There were comments both pro and con on the use of factors. Denis felt that the factors were part of a covenant with the community, and that we all moved in with the factors in place. Tom was not in favor of the use of factors. Jane thought the factors were too subjective, making them difficult to justify. Brooke felt strongly that the difficulties of living along Harvey Road justified that factor. Walt agreed, stating that when he lived adjacent to Harvey Road and simply changed his address to Hillside Road, his property value went up. Jane suggested that one of the recommendations in our final report should be getting documentation from a real estate expert to quantify the factors. In the end, the Board agreed that there is a lot more we want to say, as a Board, on other issues, and it is not the best use of our time to get caught up in a discussion about factors.

Finally, the Board discussed the agenda for the next meeting on March 14<sup>th</sup>. The Board agreed to take up the following issues:

- Our report to the town meeting at the end of March.
- Our budget request.
- Domiciles.
- The Green Book – how to handle summaries, essays, cover letters, commentaries and opinion pieces.

The meeting was adjourned at 9:34 p.m.

Respectfully submitted by,  
Jane Frantz  
Secretary, Board of Assessors